

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Eddie W. McCain,

Plaintiff,

v.

Case NO. 2:14-cv-1384

Dr. B. Woods, et al.,

Defendants.

ORDER

This is an action pursuant to 42 U.S.C. §1983 brought by plaintiff, a state prisoner housed at the London Correctional Institution, against defendants Dr. Barbara Woods, Nurse R. Murphy, Dr. A. Eddy, and unnamed John and Jane Doe employees of the Ohio Department of Rehabilitation and Correction. Plaintiff claims that his constitutional rights were violated when he received allegedly inadequate medical treatment after he fell on ice at the prison. This matter is before the court for consideration of the July 2, 2015, report and recommendation of the magistrate judge. The magistrate judge recommended that the motion to dismiss plaintiff's complaint pursuant to Fed. R. Civ. P. 12(b) for failure to state a claim filed by defendants Dr. Woods, Nurse Murphy and Dr. Eddy be granted due to plaintiff's failure to exhaust his administrative remedies.

The report and recommendation specifically advised the parties that the failure to object to the report and recommendation within fourteen days "will result in a waiver of the right to have the district judge review the Report and Recommendation de novo, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation." Doc.

13, pp. 7-8. The time period for filing objections to the report and recommendation has expired, and no objections have been filed.

The court has reviewed the report and recommendation, and hereby adopts and affirms the report and recommendation (Doc. 13). Accordingly, the motion to dismiss filed by Dr. Woods, Nurse Murphy and Dr. Eddy (Doc. 5) is granted. Because plaintiff has failed to properly serve and identify the John and Jane Doe defendants within 120 days of the filing of his complaint as required under Fed. R. Civ. P. 4(m), the claims against those defendants will be dismissed as well. The complaint is hereby dismissed without prejudice.

It is so ordered.

Date: July 30, 2015

s/James L. Graham
James L. Graham
United States District Judge